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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JAMES MCSHERRY

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Appeal 2008-0899
Application 09/783,197
Technology Center 3600

———————

Decided: August 29, 2008

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Before MURRIEL E. CRAWFORD, HUBERT C. LORIN,
JOSEPH A. FISCHETTI, *Administrative Patent Judges.*

FISCHETTI, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-3, 6-19, 22-35, 38, 40-45 and 48-56. We have jurisdiction under 35 U.S.C. § 6(b)(2002).

SUMMARY OF DECISION

We REVERSE.

THE INVENTION

Appellant claims a method and related apparatus for providing workplace services to a large group of subscribers. (Specification 1:5-10).

Claims 1 and 17, reproduced below, is representative of the subject matter on appeal.

1. A method for managing workplace services provided by specialists to a plurality of users who are members of an organization by means of a computer system having a memory and connected to a network, the method comprising:

(a) upon a request from the organization, using personnel in a workplace resources office who are familiar with the workplace services, but are not the specialists to contact the plurality of users and to obtain background information for the plurality of users and the organization;

(b) creating a database in the computer system memory, the database containing, for each of the plurality of users, user background information and user identifying information unique and specific to each user;

(c) connecting the workplace resources office to the computer system and the database via the network in order to store the background information for the plurality of users and the organization obtained by the workplace resources office in the database before a user contacts a specialist;

(d) before one of the plurality of users attempts to obtain specific assistance with any issue unique to their workplace and based on the background information, providing from the workplace resources office to that user, contact information

which allows that user to immediately and directly contact a specialist with expertise specific to their unique workplace issues and who is not one of the workplace resources office personnel in order to establish a communication session during which the specialist provides assistance on a specific workplace issue to that user wherein, during each communication session, the specialist receives user identifying information from that user, uses the received identifying information to access and retrieve user background information for that user from the database via the network, which information was previously stored in step (c), and combines the background information with their specific expertise and any additional or corrected information provided by the user to provide specific, live assistance to the user concerning the specific and unique workplace issues; and

(e) storing in the database over the network information concerning each communication session including the unique and specific advice provided to that user by the specialist and adding the unique and specific stored communication session information to the user background information for that user.

17. Apparatus for managing workplace services provided by specialists to a plurality of users who are members of an organization by means of a computer system having a memory and connected to a network, the apparatus comprising: upon a request from the organization,
a mechanism that uses personnel in a workplace resources office who are familiar with the workplace services, but are not the specialists to contact the plurality of users and to obtain background information for the plurality of users and the organization;
a database created in the computer system memory, the database containing, for each of the plurality of users, user background information and user identifying information unique and specific to each user;
a mechanism that connects the workplace resources office to the computer system and the database via the network in order to store the background information for the plurality of users and the organization obtained by the workplace resources office in the database before a user contacts a specialist;

a communication mechanism operable before one of the plurality of users attempts to obtain specific assistance with any issue unique to their workplace that,

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based on the background information, provides from the workplace resources office to that user, contact information which allows that user to immediately and directly contact a specialist with expertise specific to their unique workplace issues and who is not one of the workplace resources office personnel in order to establish a communication session during which the specialist provides assistance on a specific workplace issue to that user wherein, during each communication session, the specialist receives user identifying information from that user, uses the received identifying information to access and retrieve client background information for that user from the database via the network, which information was previously stored by the mechanism that connects the workplace resources office to the computer system and the database, and combines the background information with their specific expertise and any additional or corrected information provided by the user to provide specific, live assistance to the user concerning the specific and unique workplace issues; and

a knowledge management system that, under control of the specialist, stores in the database over the network information concerning each communication session including the unique and specific advice provided to that user by the specialist and adds the unique and specific stored communication session information to the user background information for that user.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Bateman	US 5,884,032	Mar. 16, 1999
Riley	US 2002/0123983 A1	Sep. 5, 2002
Huboi	US 6,799,198 B1	Sep. 28, 2004

The following rejections are before us for review.

1. Claims 1-3, 6-14, 17-19, 22-30, 33-35, 38, 40-45, 48-51 and 53-56 stand rejected under 35 U.S.C. §103(a) over Riley in view of Bateman.

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2. Claims 15-16, 31-32 and 52 stand rejected under 35 U.S.C. § 103(a)
over Riley in view of Bateman and further in view of Huboi.

FINDINGS OF FACT

1. The system in Riley requires that user information be verified at the point
of inquiry such that

> ... a decision is made 65 as to whether the information is
> correct or not. If an update is needed concerning a
> number of items, an update is made 66. This information
> may include a number of data, such as the caller's
> location, contact details, platform type or serial number,
> his or her operating system and other loaded applications,
> and the like. If needed, the information can be gathered
> or stored in a central service desk repository 22.

(Riley, (¶[0107])

2. In Riley it is only after the customer information is verified or updated
that

> ...an operator enters details concerning the customer's
> problem or incident into the service request log 67. The
> service request is then categorized 67.5, and the type of
> service requested is determined 68. A priority is then
> assigned to the request 69. Lastly, the request is sent for
> first tier request resolution 43.

(Riley, ¶([0107])

3. Riley discloses using an assignee to resolve a problem which could not
otherwise be solved by the service desk operator, and as such the assignee is a
specialist. However, the assignment of an assignee only occurs

> "[i]f the operator cannot solve the customer's problem,
> the service desk operator tries to determine the
> appropriate resource to solve the problem 113. If the
> resource is known, the operator assigns the resource 115.
> If the resource is not known, the operator determines the
> proper resource 114, perhaps with reference to a central
> service desk knowledge or resource repository 22, and
> then assign the resource 115.

(Riley, ¶[0139])

ANALYSIS

The rejections are reversed as to claims 1-3, 6-19, 22-35, 38, 40-45 and 48-56. For the reasons that follow, we do not sustain the Examiner's rejection of independent claims 1, 17, 33 and 48.

Independent claims 1, 33 and 48 each recite in pertinent part a method or coded process whereby:

> before a user attempts to obtain specific assistance with
> any issue unique to their workplace and based on the
> background information, providing from the workplace
> resources office to that user, contact information which
> allows that user to immediately and directly contact a
> specialist with expertise specific to their unique
> workplace issues and who is not one of the workplace
> resources office personnel in order to establish a
> communication session during which the specialist
> provides assistance on a specific workplace issue to that
> user.

First, Riley discloses that the customer information, e.g., contact information, must first be verified and a decision is made as to whether the information is correct (FF 1). Also at this juncture, a decision is made as to whether an update is needed concerning a number of items required for the contact information. If so, an update is made (*Id.*). Thus, the requirement of user contact information being in place in a data base prior to the request by a user is not met by Riley by the updating requirement in Riley.

Furthermore, in Riley, even if updating of information does not take place for a given customer, the user's request is categorized and then prioritized and sent for resolution to a tiered system by the service desk operator and access to the levels of specialists are not at the control of the user (FF 1-3).

More specifically, independent claims 1, 33 and 48 require the user have *immediate and direct contact* with a specialist with expertise specific to their unique workplace issues and who is not one of the workplace resources office personnel. Since in Riley, the party directing the prioritization of the request is not the specialist but rather part of the workplace resources office, i.e., the service desk operator (FF 1, 2), the requirements of claims 1, 33, and 48 are not met by Riley because the service desk operator (FF 1, 2) is controlling who responds to the problem which according to the claims cannot be one of the workplace resources office personnel. In addition, in Riley, the system in Riley is structured such that the user has no immediate and direct access to a specialist, e.g. someone other than the service desk operator, because it is entirely up to the service desk

operator to assign the problem to a specialist if the service desk operator cannot resolve it (FF 3).

The Examiner's reliance on Bateman fails to cure the deficiency in Riley because the Examiner only relies on Bateman for the teaching of "…receiving during each communication session the specialist receives user identifying information from the user…." (Answer 7).

Since claims 2-3, 6-16, 34-35, 38, 40, 41, 44, 45, 49, 50, 51, 52, 55, 56 depend from claims 1, 33 and 48, whose rejection we do not sustain, we do not sustain the rejections of dependent claims 2-3, 6-16, 34-35, 38, 40, 41,44, 45, 49, 50, 51, 52, 55, 56 either.

Independent claim 17 is directed to an apparatus for managing workplace services, and not to process steps. As such, our analysis shifts to the structural components of the claims rather than process steps.

Claim 17 recites in pertinent part:

> a communication mechanism …which allows that user to
> immediately and directly contact a specialist with
> expertise specific to their unique workplace issues and
> who is not one of the workplace resources office
> personnel in order to establish a communication session
> during which the specialist provides assistance on a
> specific workplace issue to that user….

We give such functional language weight in our determination of patentability, but do so to the extent that the prior art is capable of functioning in the manner claimed. *See In re Schreiber*, 128 F.3d 1473, at 1478-1479 (Fed. Cir. 1995). Claim 17 requires a communications mechanism which is at least capable of

allowing a user to immediately and directly contact a specialist with expertise specific to their unique workplace issues and who is not one of the workplace resources office personnel. However, in Riley, any access to a specialist (someone other than the service desk operator) by a user is governed by the communications network which forces the user to speak with the service desk operator who is in turn charged, if he or she so designates, with assigning a specialist to the problem (FF1-3). Thus, the system is not structured and thus is incapable of allowing direct access to a specialist, particularly because in Riley, the assignees, e.g. specialists, cannot be accessed except by the service desk operator who must prompt a request to the specialist for the customer by assigning the customer a specialist. (*Id.*)

The Examiner's reliance on Bateman fails to cure the deficiency in Riley because the Examiner only relies on Bateman for the teaching of "…receiving during each communication session the specialist receives user identifying information from the user…." (Answer 7).

Since claims 18,19, 22-32, 42, 43 and 54 depend from claim 17, whose rejection we do not sustain, we do not sustain the rejections of claims 18,19, 22-32, 42, 43 and 54 either.

CONCLUSIONS OF LAW

We conclude:

We reverse the Examiner's rejection of claims 1-3, 6-14, 17-19, 22-30, 33-35, 38, 40-45, 48-51 and 53-56 under 35 U.S.C. § 103(a) over Riley in view of Bateman.

We reverse the Examiner's rejection of claims 15-16, 31-32 and 52 under 35 U.S.C. § 103(a) over Riley in view of Bateman and further in view of Huboi.

DECISION

The decision of the Examiner to reject claims 1-3, 6-19, 22-35, 38, 40-45 and 48-56 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2006).

REVERSED

JRG

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